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**OFFICE OF PETITIONS**

In re Application of  
Jeffry Batio  
Application No. 09/690,799  
Filed: October 17, 2000  
Attorney Docket No. 1558.011

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ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 15, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 18, 2003.

The Associate Power of Attorney submitted on August 2, 2005, will be treated as a Power of Attorney and Change of Correspondence Address since the Associate Power of Attorney practice was eliminated on June 25, 2004. See Revision of Power of Attorney and Assignment Practice, 69 Fed Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (June 22, 2004). It is also noted that since there was no Revocation of Power of Attorney submitted, the current practitioners listed are still on record.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of \$750; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed August 25, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application file is being forwarded to Technology Center 2600, Art Unit 2675 for further processing.

*Retta Williams*

Retta Williams  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy